

EXHIBIT N

Jose A. Serpa

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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

JAMES A. WILSON, et al.,)
)
 Plaintiffs,) C.A. No. 05-399-JJF
)
 v.)
)
 STANLEY TAYLOR, et al.,)
)
 Defendant.)

Deposition of JOSE A. SERPA taken pursuant to notice before Renee A. Meyers, Certified Realtime Reporter and Notary Public, in the Sussex Correctional Center, Georgetown, Delaware, on Thursday, June 28, 2007, beginning at approximately 11:55 a.m., there being present:

APPEARANCES:

DEPARTMENT OF JUSTICE
STACEY XARHOULAKOS, ESQ.
820 North French Street, 6th Floor
Wilmington, Delaware 19801
for Defendants.

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<p>1 You know, you might see a lieutenant, he might come and 2 be like, I trashed your grievance; it was 3 non-grieveable.</p> <p>4 So it was like -- so we filed it through them, 5 sent emergency grievance, sent it straight through the 6 warden's office, and nothing happened.</p> <p>7 Q. Were the grievances based on religious 8 discrimination or racial discrimination?</p> <p>9 A. Religious and racial.</p> <p>10 Q. Did you specifically file a grievance alleging 11 racial discrimination?</p> <p>12 A. Yes.</p> <p>13 Q. Do you recall when?</p> <p>14 A. Let's see. I left -- I left the Merit building 15 in, I think it was like April 7th of last year, and I 16 filed one there because I was going up for another job 17 and I was working at the kitchen, and I was going for a 18 job at the gym and at the medical --</p> <p>19 Q. I am going to stop you one second. April of last 20 year would have been April of '06?</p> <p>21 A. I left -- '05 when I left.</p> <p>22 Q. Go ahead.</p> <p>23 A. And I filed for, I think it was like '05, I filed 24 for another job and the counselor told me that she is</p>	<p>1 Q. Do you know who that was?</p> <p>2 A. No. I don't remember his name, ma'am.</p> <p>3 Q. What race was he?</p> <p>4 A. He was white, Caucasian.</p> <p>5 Q. Do you remember what he looked like?</p> <p>6 A. No. He is still working back in the school. He 7 was an older guy.</p> <p>8 Q. And, so, what makes you think that that decision 9 was based on your race?</p> <p>10 A. Because he knew -- I am saying -- it was, like, 11 he knew all the people in the building at the time. He 12 was, like, friends with Stolzenbach and all them, and 13 she was like, I am not a friend of yours, and then she 14 was like, You are not qualified. So if my education 15 don't qualify, what is the reason they don't qualify me? 16 I asked her, and in return for me asking this question, 17 I was threw out the building. They told me, Since now I 18 don't have no job and because, you know, the lawsuit and 19 all that is going on, I was talking to the counselor, 20 she said, You are no longer permitted in this building 21 because you are not working. They kicked me out of the 22 building. The grievance I put in, I never got no answer 23 back.</p> <p>24 Q. What building are you talking about?</p>
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<p>1 going to -- you know, I have a problem with the kitchen 2 job and all that, I cut my finger and got burnt several 3 times, so she was like she was going to help me get 4 another job.</p> <p>5 So this new guy came to the building, in the 6 tutoring job, so she was like -- well, since I came in 7 and I got a little bit of college education since I have 8 been here taking correspondent courses, so the guy, he 9 came in the building, he been in the building like -- 10 you get jobs if you have been here long enough and if 11 you qualify, so I filled resume and all that stuff out. 12 This guy, he come in the building, he been here like a 13 week, you know what I mean, he go talk to her, This is 14 some of my boys, I know them, this and that, back and 15 forth, they are talking.</p> <p>16 Next thing you know, they telling me, We can't 17 get you the job; we gave the job to him. I am like, 18 What's the reason? She was like, You are not qualified 19 for it. I have -- all you need is a G.E.D. to get a 20 job. I have a G.E.D. I am a credit away from getting 21 my high school diploma and I have college courses under 22 my belt. So she was like, You are not qualified. But 23 this guy, he was working on his G.E.D. and she gave him 24 the job.</p>	<p>1 A. The Merit building.</p> <p>2 Q. And you said that he was -- the guy who got the 3 job was friends with everybody?</p> <p>4 A. Yes. Like, he knew most all the C.O.s. He been 5 down a while.</p> <p>6 Q. You think that's why he got the job?</p> <p>7 A. Yes.</p> <p>8 Q. Do you think that this decision about whether or 9 not you got the job made its way up to the warden or the 10 commissioner?</p> <p>11 A. I put an emergency grievance in and I know that 12 goes straight to the warden's office. And if you left 13 the building, I don't know, but I had filed another 14 grievance and they told me it will take six months to 15 hear back and it's been two years since I heard. I 16 haven't heard nothing back and it been over two years.</p> <p>17 Q. Do you remember the dates of these grievances?</p> <p>18 A. No, ma'am.</p> <p>19 Q. Do you recall that I requested those grievances 20 in the requests I sent you?</p> <p>21 A. Yes.</p> <p>22 Q. Do you have copies of them?</p> <p>23 A. The grievances? No. You are not allowed to 24 photocopy. We are not -- we don't have photocopy and</p>

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1	the staff won't photocopy nothing for us.	1	because you lost the kitchen job?
2	Q. And these were all related to your job?	2	A. That's what they said, but I didn't have my -- I
3	A. Yes.	3	heard my hearing for the write-up -- you get your
4	Q. And did you say, in the grievance, that you -- I	4	hearing for the write-up and then you go appeal it, you
5	mean, what did you grieve? What did you ask for? What	5	know what I mean, so when Lieutenant Hollis came and
6	remedy did you ask for?	6	talked to me, he was like, you know, he is going to talk
7	A. I just grieved on there about how I be getting	7	to you and find out what's going on. He asked me, Have
8	judged by what job I am qualified for and what jobs I am	8	I been to medical? I am like, Yes. They contacted
9	not qualified for. When they, like, when they post the	9	medical.
10	jobs on the board, they put everything what you need to	10	Come to find out that I had a medical slip in to
11	qualify and how you need to go about doing it, so I did	11	go to medical -- this is April 1st, it was on a
12	all this. I even have some of the people that was there	12	Saturday. I went to medical and I filed a grievance
13	help me out, you know what I mean, make sure my thing	13	about the situation. I go to medical, they tell me -- I
14	was all right. I sent it in, they told me I wasn't	14	come back to the building, Pack up, you are moving.
15	qualified or whatever. They told me, Because I didn't	15	They moved me. And then I am like, What happened? I
16	have a job, I could no longer be in the building, and	16	never finished my write-up. I said, I will at least get
17	that's, like, un-qualifying me for my job because I am	17	a chance to put an appeal in. They said, You no longer
18	no longer Merit status.	18	hold a job and you are taking up bed space, and moved me
19	Q. What job did you have before that?	19	out of the building.
20	A. I worked in the kitchen.	20	Q. So it sounds to me, from what you have told me,
21	Q. Did you lose that job?	21	that you have a lot of issues about whether or not you
22	A. I was sick. I cut my hand. They said they was	22	should have gotten the tutoring job, you feel someone
23	having too many medical problems with me. You can see	23	else got it because of favoritism, and then you are
24	on my hand, I got a big gash. It was wrapped up. And	24	concerned about that you lost the kitchen job and were
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1	you don't -- me, personally, I am not going to let	1	moved out of Merit even though you were grieving that
2	nobody work over my food with open cuts on my hand. So	2	loss of that job.
3	I was sick and then I showed them my hand and it was	3	I'd like you to just tell me how this ties into
4	still, like, pussing, and the C.O. at the time who was	4	race.
5	working in the kitchen said, Well, if you can't work	5	A. Because it's on the west side. The west side is
6	today, because we need you because we are short of	6	where they put all, like, the blacks and Hispanics. You
7	staff, ain't no need for you to come back. Contact the	7	are -- and the -- they call them the rejects from the
8	building, told the sergeant, and I think his name was	8	east side. If you was on the east side and you was
9	Sergeant Yuengling, contact him, and then sent a file to	9	Caucasian and you started trouble or if you had, like, a
10	-- a note to my counselor on the file, and said I am	10	problem with the other C.O.s, like we had one guy got
11	terminated.	11	caught with a cigarette lighter, so they took him and
12	Q. Because of your injury?	12	moved him over here. Well, you go live with them. And
13	A. Yes.	13	then our side was called the hood. So that's how they,
14	Q. And, at that time, is that when you applied for	14	like, basically, like, name of the buildings, east side,
15	the tutoring job?	15	which was mainly whites, you know, the west side was
16	A. I applied for it before that.	16	mainly black and Hispanics and whoever, like, was the
17	Q. At what point were you moved out of the Merit	17	trouble on the east side. And if you get in trouble
18	building?	18	over there -- whatever happened, you get in trouble over
19	A. Probably like three days after I lost my other	19	there, that's what happened, you get kicked out of the
20	job.	20	building. You get in trouble over that side, you know,
21	Q. Was this before you had the final decision on the	21	on the other side, which is mainly all Caucasians,
22	tutoring job?	22	nothing happen to you. So it was like --
23	A. Yes.	23	Q. What I am trying to do is tie in specifically
24	Q. So, it sounds like you were moved out of Merit	24	what we were talking about -- we are getting a little

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<p>1 far now. We were talking about your kitchen job and 2 your tutoring job that you were applied for. And I am 3 trying to tie that into how you think that all means you 4 were discriminated against.</p> <p>5 A. Because it never happened to other people. 6 People, they lost their job and they get another job. 7 Like, for instance, a guy Jackie Lovett, he lost his job 8 as a Tempo tutor. He live on the east side. He is 9 Caucasian. They give him a job in the kitchen, kept him 10 in there for like two weeks, and then they gave him 11 another job. So if they get treated -- he get treated 12 one way and I get treated another way, so that's 13 basically telling you right there how things are going. 14 If a Caucasian lose their job, they put them in another 15 spot. Well, we will put you here and then we will move 16 you here.</p> <p>17 Q. Do you know what the circumstances were that -- 18 why Jackie got the job?</p> <p>19 A. I think he got caught stealing.</p> <p>20 Q. So, he lost his job for stealing?</p> <p>21 A. Yes. I think he got caught stealing folders, if 22 I recall that right.</p> <p>23 Q. And do you know why -- he lost his job from the 24 kitchen because of stealing?</p>	<p>1 cut my hand on the slicer, it took me almost two months 2 to heal it, and they still tell me I had to work in the 3 kitchen and I am not qualified for the tutoring job. 4 How? I don't know.</p> <p>5 Q. Did you apply for the gym job before your kitchen 6 job or after? When was that?</p> <p>7 A. After. You are only allowed to get the jobs when 8 the openings come. And being in the building where, 9 like, the Merit building, this is like lifers, you know, 10 they got to have a lot of time. Like, Merit building 11 was for if you got over two years, you can go. But now 12 they done broke it up where if you have a year or less 13 -- if you have a year or more, you can go. It's not 14 just a lifer building anymore. It was first for lifers. 15 And all the guys, like Jackie Lovett and all them was 16 lifers, so they try to keep them, you know, pacified by 17 giving them what jobs they need.</p> <p>18 Q. What if I told you that three of the plaintiffs 19 in this case I deposed already told me that they were 20 housed on the east side and they were all 21 African-American.</p> <p>22 A. That was probably after the grievance was put in, 23 after the grievance and all this motions, that they were 24 probably housed on the east side. I can name people --</p>
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<p>1 A. He lost his job from the Tempo program.</p> <p>2 Q. And then he was moved to the kitchen?</p> <p>3 A. Moved to the kitchen and then he was given a gym 4 job.</p> <p>5 Q. And that gym job, did you apply for that job?</p> <p>6 A. Yes.</p> <p>7 Q. At the same time that he did?</p> <p>8 A. No. Way before he did.</p> <p>9 Q. Why were you told you didn't get the job?</p> <p>10 A. I was still on hold. I was still waiting to go 11 through an interview.</p> <p>12 Q. Do you have reason to believe that if a white 13 inmate worked in the kitchen and had his hand cut, that 14 he wouldn't have lost his job?</p> <p>15 A. Yeah.</p> <p>16 Q. Why?</p> <p>17 A. Because it happened.</p> <p>18 Q. Who?</p> <p>19 A. I seen Jackie Lovett, same guy, burn his hand, 20 and he got the gym job.</p> <p>21 Q. No, I mean from the kitchen.</p> <p>22 A. Yeah. He was in the kitchen. He was the baker.</p> <p>23 When he was there, he burned his hand. Then they took 24 him out of the kitchen and gave him the Tempo job. I</p>	<p>1 James Williams was housed on the east side, the guy who 2 started the lawsuit. He was housed on the east side. 3 So he know firsthand what was going on. I was housed on 4 the west side.</p> <p>5 I know several other guys who signed off was 6 housed on the east side, and, mainly, the reason why 7 they signed off was because there was fear of 8 retaliation from the guards, from getting set up, 9 finding some "Top" in your room, you know, finding C.O.s 10 come shake you down and they might find a magazine you 11 get through the mail and say it's too revealing, write 12 you up for a Class I, send you to the hole. Now you 13 done lost your bed space. After you are found not 14 guilty, you lose your bed space and you can't come back 15 to Merit because of that write-up.</p> <p>16 Q. Now, Mr. Wilson was in the east side before the 17 litigation.</p> <p>18 A. Yes.</p> <p>19 Q. Now, who calls the west side the hood?</p> <p>20 A. The staff.</p> <p>21 Q. Do the inmates?</p> <p>22 A. No.</p> <p>23 Q. Do they have other nicknames?</p> <p>24 A. No. It's just the west side. The staff call it</p>

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<p>1 the hood.</p> <p>2 Q. And who calls the east side what?</p> <p>3 A. The suburbs. He is retired. He was an older</p> <p>4 guy. He used to call it suburbans because he would go</p> <p>5 over there and it's peaceful and it's quiet. And then</p> <p>6 he come over there -- he used to call it the west side,</p> <p>7 he used to be like, the hood.</p> <p>8 Q. Is that one guard?</p> <p>9 A. No. I know Diaz, but I don't know where he at,</p> <p>10 and I know Stolzenbach, but I am saying the main guy who</p> <p>11 said that every time he come over, like, Oh, they got me</p> <p>12 working the hood today. We have staff members, security</p> <p>13 staff, who they bicker amongst each other because they</p> <p>14 don't want to work there. So now they just got -- the</p> <p>15 regular staff who work the west side is Miss Brown and</p> <p>16 -- I forgot the other guard name, but it's all black</p> <p>17 guards working that side. Where only, like, on their</p> <p>18 day off, we get, like, one Caucasian staff and that was</p> <p>19 C.O. Fink. Diaz might fill in every now and again, and</p> <p>20 he will come over there, shake your tier down because he</p> <p>21 got issues. I think he was part of the lawsuit. I</p> <p>22 don't know.</p> <p>23 Q. Are you saying the correctional officers are</p> <p>24 discriminated against, too?</p>	<p>1 the east side because they got caught up in stuff.</p> <p>2 Q. But there are black inmates on the east side,</p> <p>3 too. We just talked about that.</p> <p>4 A. Yes. I said the ones that was in the lawsuit</p> <p>5 that got signed off because they feared retaliation</p> <p>6 because they don't want to go back to the medium</p> <p>7 building. So they signed off, because if they don't,</p> <p>8 then they fear retaliation by shake downs and getting</p> <p>9 set up or getting moved out for a bunch of nothing.</p> <p>Q. Did Corporal Diaz ever say that he didn't want to</p> <p>work there because there were black inmates there?</p> <p>A. No, not personally. He never personally told me</p> <p>that he never want to work there because of blacks. He</p> <p>said he don't like working in the hood.</p> <p>Q. The complaint alleges that there are policies --</p> <p>let me read the complaint. As I told you before, the</p> <p>defendants that are left are Stan Taylor and Warden</p> <p>Kearney. And it says, in reference to them, that they</p> <p>maintained policies that denied black inmates equal</p> <p>protection, due process, classification, and job</p> <p>opportunity. Now, as I already told you, all those</p> <p>other claims have been dismissed except for the equal</p> <p>protection.</p> <p>So my question is: Do you know what policies the</p>
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<p>1 A. Yes.</p> <p>2 Q. By who?</p> <p>3 A. Are discriminating against us. They come on and</p> <p>4 they, like, discriminate, calling, Yo, this is the hood</p> <p>5 and all that, so they treat us how they see us.</p> <p>6 Q. You are just saying that there is only black</p> <p>7 officers?</p> <p>8 A. Yeah. The west side block, when I was back</p> <p>9 there, was only ran by black staff members.</p> <p>10 Q. So why does that matter?</p> <p>11 A. The Caucasian staff don't want to work the west</p> <p>12 side. They said they don't want to work the hood.</p> <p>13 Q. Did they tell you that?</p> <p>14 A. Yes.</p> <p>15 Q. Who?</p> <p>16 A. Corporal Diaz.</p> <p>17 Q. Corporal Diaz told you that he doesn't want to</p> <p>18 work in the hood?</p> <p>19 A. Yes.</p> <p>20 Q. Did he tell you that that was because of race?</p> <p>21 A. He said because he don't like working over there.</p> <p>22 And we asked him why. He said, Because you all don't</p> <p>23 know how to act. Like I said, the west side is just all</p> <p>24 the black people or whites who have been rejected from</p>	<p>1 complaint is referring to?</p> <p>2 A. No.</p> <p>3 Q. Have you ever met Stan Taylor or Rick Kearney?</p> <p>4 A. I seen them pass through on the compound.</p> <p>5 Q. Have you ever talked to them?</p> <p>6 A. No. If you talk to anybody higher than a C.O.,</p> <p>7 you are getting a write-up for unauthorized</p> <p>8 communication.</p> <p>9 Q. Well, some other plaintiffs have told me that</p> <p>10 they have initiated conversations, so in any context,</p> <p>11 have you --</p> <p>12 A. Never.</p> <p>13 Q. Do you know why -- we might have touched base on</p> <p>14 this a little bit -- do you know why they might have</p> <p>15 been named in the lawsuit?</p> <p>16 A. No.</p> <p>17 Q. This is something that I am asking everyone</p> <p>18 because after some plaintiffs become aware of where the</p> <p>19 lawsuit stands and that a lot of defendants are out,</p> <p>20 they no longer want to participate in it, so my question</p> <p>to you is whether you still want to pursue the</p> <p>21 litigation as it stands?</p> <p>22 A. Yes.</p> <p>23 Q. We talked about grievances.</p>